

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

JUN 21 2005

JOHN F. ZORCORAN, CLERK
BY *[Signature]*
DEPUTY CLERK

KRISTIE LYNNE MORRIS

Plaintiff,

v.

MARTHA JEFFERSON HOSPITAL,
et al,

Defendants.

CIVIL ACTION NO. 3:05CV00015

ORDER

JUDGE JAMES H. MICHAEL, JR.

Before the court is the presiding United States Magistrate Judge's Report and Recommendation of May 13, 2005, wherein he recommended that the court treat the plaintiff's May 12, 2005 Stipulation of Dismissal pursuant to Rule 41(a) as a motion for voluntary dismissal of Count IV of plaintiff's Complaint, the only count upon which the defendants asserted subject matter jurisdiction in support of their removal of the case to this court from the Circuit Court of the City of Charlottesville, Virginia. The Magistrate Judge further recommended that this court grant the plaintiff's motion, dismiss Count IV, and grant the plaintiff's April 14, 2005 motion to remand the case to the Circuit Court of the City of Charlottesville, Virginia, in accordance with 28 U.S.C. § 1367 because the only claim upon which the subject matter jurisdiction of this court rested is being dismissed. After a careful review of the entire record in this case, and no objection having been filed to the Magistrate Judge's report within ten (10) days of its service upon the parties, *see* Fed. R. Civ. P. 72(b), the court accepts the Magistrate Judge's report in its entirety. It is accordingly this day

ADJUDGED, ORDERED, and DECREED

as follows:

1. The Magistrate Judge's Report and Recommendation, filed May 13, 2005, is hereby ACCEPTED in its entirety;
2. The plaintiff's May 12, 2005 Stipulation of Dismissal pursuant to Rule 41(a) is construed as a motion for voluntary dismissal of Count IV of plaintiff's Complaint and is hereby GRANTED;
3. Count IV of the plaintiff's Complaint (Motion for Judgment) is hereby DISMISSED;
4. The plaintiff's April 14, 2005 motion to remand is hereby GRANTED;
5. This action is hereby REMANDED to the Circuit Court of the City of Charlottesville, Virginia; and
6. The Clerk of the Court is instructed to transfer the complete record of the case to the Circuit Court of the City of Charlottesville and to strike the case from the docket of this Court.

The Clerk of the Court hereby is further directed to send a certified copy of this Order to all counsel of record and to Magistrate Judge Crigler.

ENTERED:

John H. Michael, Jr.
Senior United States District Judge

6-21-2005
Date